



# Environment Act 1995

## 1995 CHAPTER 25

### PART I

#### THE ENVIRONMENT AGENCY AND THE SCOTTISH ENVIRONMENT PROTECTION AGENCY

### CHAPTER III

#### MISCELLANEOUS, GENERAL AND SUPPLEMENTAL PROVISIONS RELATING TO THE NEW AGENCIES

#### *Supplemental provisions*

#### **53 Inquiries and other hearings.**

- (1) Without prejudice to any other provision of this Act or any other enactment by virtue of which an inquiry or other hearing is authorised or required to be held, the appropriate Minister may cause an inquiry or other hearing to be held if it appears to him expedient to do so—
  - (a) in connection with any of the functions of a new Agency; or
  - (b) in connection with any of his functions in relation to a new Agency.
- (2) Subsections (2) to (5) of section 250 of the <sup>M1</sup>Local Government Act 1972 (which contain supplementary provisions with respect to local inquiries held in pursuance of that section) shall apply to inquiries or other hearings under this section or any other enactment—
  - (a) in connection with any of the functions of the Agency, or
  - (b) in connection with any functions of the Secretary of State or the Minister in relation to the Agency,as they apply to inquiries under that section, but taking the reference in subsection (4) of that section to a local authority as including a reference to the Agency.

*Status: Point in time view as at 01/04/1996.*

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- (3) The provisions of subsections (2) to (8) of section 210 of the <sup>M2</sup>Local Government (Scotland) Act 1973 (which relate to the holding of local inquiries) shall apply to inquiries or other hearings held under this section or any other enactment—
- (a) in connection with any of the functions of SEPA, or
  - (b) in connection with any functions of the Secretary of State in relation to SEPA, as they apply to inquiries held under that section.

#### Marginal Citations

- M1** 1972 c. 70.  
**M2** 1973 c. 65.

#### 54 Appearance in legal proceedings.

In England and Wales, a person who is authorised by the Agency to prosecute on its behalf in proceedings before a magistrates' court shall be entitled to prosecute in any such proceedings although not of counsel or a solicitor.

#### 55 Continuity of exercise of functions: the new Agencies.

- (1) The abolition of—
- (a) the National Rivers Authority,
  - (b) the London Waste Regulation Authority, or
  - (c) a river purification board,
- shall not affect the validity of anything done by that Authority or board before the transfer date.
- (2) Anything which, at the transfer date, is in the process of being done by or in relation to a transferor in the exercise of, or in connection with, any of the transferred functions may be continued by or in relation to the transferee.
- (3) Anything done by or in relation to a transferor before the transfer date in the exercise of, or otherwise in connection with, any of the transferred functions, shall, so far as is required for continuing its effect on and after that date, have effect as if done by or in relation to the transferee.
- (4) Subsection (3) above applies in particular to—
- (a) any decision, determination, declaration, designation, agreement or instrument made by a transferor;
  - (b) any regulations or byelaws made by a transferor;
  - (c) any licence, permission, consent, approval, authorisation, exemption, dispensation or relaxation granted by or to a transferor;
  - (d) any notice, direction or certificate given by or to a transferor;
  - (e) any application, request, proposal or objection made by or to a transferor;
  - (f) any condition or requirement imposed by or on a transferor;
  - (g) any fee or charge paid by or to a transferor;
  - (h) any appeal allowed by or in favour of or against a transferor;
  - (j) any proceedings instituted by or against a transferor.

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- (5) Any reference in the foregoing provisions of this section to anything done by or in relation to a transferor includes a reference to anything which, by virtue of any enactment, is treated as having been done by or in relation to that transferor.
- (6) Any reference to a transferor in any document constituting or relating to anything to which the foregoing provisions of this section apply shall, so far as is required for giving effect to those provisions, be construed as a reference to the transferee.
- (7) The foregoing provisions of this section—
- (a) are without prejudice to any provision made by this Act in relation to any particular functions; and
  - (b) shall not be construed as continuing in force any contract of employment made by a transferor;
- and the Secretary of State may, in relation to any particular functions, by order exclude, modify or supplement any of the foregoing provisions of this section or make such other transitional provisions as he thinks necessary or expedient.
- (8) Where, by virtue of any provision of Schedule 15 to this Act, the Minister is the transferor in the case of any functions, he shall have the same powers under subsection (7) above in relation to those functions as the Secretary of State.
- (9) The power to make an order under subsection (7) above shall be exercisable by statutory instrument; and any statutory instrument containing such an order shall be subject to annulment pursuant to a resolution of either House of Parliament.
- (10) In this section—
- “the transferee”, in the case of any transferred functions, means the new Agency whose functions they become by virtue of any provision made by or under this Act;
- “transferred functions” means any functions which, by virtue of any provision made by or under this Act, become functions of a new Agency; and
- “transferor” means any body or person any or all of whose functions become, by virtue of any provision made by or under this Act, functions of a new Agency.

#### Commencement Information

- II** S. 55 wholly in force at 1.4.1996; s. 55 not in force at Royal Assent see s. 125(3); s. 55(7)-(10) in force at 1.2.1996 by S.I. 1996/186, art 2; s. 55(1)-(6) in force at 1.4.1996 by S.I. 1996/186, art 3

## 56 Interpretation of Part I.

- (1) In this Part of this Act, except where the context otherwise requires—
- “the 1951 Act” means the <sup>M3</sup>Rivers (Prevention of Pollution) (Scotland) Act 1951;
- “the 1990 Act” means the <sup>M4</sup>Environmental Protection Act 1990;
- “the 1991 Act” means the <sup>M5</sup>Water Resources Act 1991;
- “the appropriate Minister”—
- (a) in the case of the Agency, means the Secretary of State or the Minister; and
  - (b) in the case of SEPA, means the Secretary of State;

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“the appropriate Ministers”—

- (a) in the case of the Agency, means the Secretary of State and the Minister;  
and
- (b) in the case of SEPA, means the Secretary of State;

“conservancy authority” has the meaning given by section 221(1) of the 1991 Act;

“costs” includes—

- (a) costs to any person; and
- (b) costs to the environment;

“disposal authority”—

- (a) in the application of this Part in relation to the Agency, has the same meaning as it has in Part I of the <sup>M6</sup>Control of Pollution Act 1974 by virtue of section 30(1) of that Act; and
- (b) in the application of this Part in relation to SEPA, has the meaning assigned to it by section 30(2) of that Act;

“the environment” has the same meaning as in Part I of the 1990 Act;

“environmental licence”, in the application of this Part in relation to the Agency, means any of the following—

- (a) registration of a person as a carrier of controlled waste under section 2 of the <sup>M7</sup>Control of Pollution (Amendment) Act 1989,
- (b) an authorisation under Part I of the 1990 Act, other than any such authorisation granted by a local enforcing authority,
- (c) a waste management licence under Part II of that Act,
- (d) a licence under Chapter II of Part II of the 1991 Act,
- (e) a consent for the purposes of section 88(1)(a), 89(4)(a) or 90 of that Act,
- (f) registration under the <sup>M8</sup>Radioactive Substances Act 1993,
- (g) an authorisation under that Act,
- (h) registration of a person as a broker of controlled waste under the <sup>M9</sup>Waste Management Licensing Regulations 1994,
- (j) registration in respect of an activity falling within paragraph 45(1) or (2) of Schedule 3 to those Regulations,

so far as having effect in relation to England and Wales;

“environmental licence”, in the application of this Part in relation to SEPA, means any of the following—

- (a) a consent under Part II of the <sup>M10</sup>Control of Pollution Act 1974,
- (b) registration of a person as a carrier of controlled waste under section 2 of the <sup>M11</sup>Control of Pollution (Amendment) Act 1989,
- (c) an authorisation under Part I of the 1990 Act,
- (d) a waste management licence under Part II of that Act,
- (e) a licence under section 17 of the <sup>M12</sup>Natural Heritage (Scotland) Act 1991,
- (f) registration under the <sup>M13</sup>Radioactive Substances Act 1993,
- (g) an authorisation under that Act,
- (h) registration of a person as a broker of controlled waste under the <sup>M14</sup>Waste Management Licensing Regulations 1994,
- (j) registration in respect of an activity falling within paragraph 45(1) or (2) of Schedule 3 to those Regulations,

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so far as having effect in relation to Scotland;

“flood defence functions”, in relation to the Agency, has the same meaning as in the 1991 Act;

“harbour authority” has the meaning given by section 221(1) of the 1991 Act;

“local authority”, in the application of this Part in relation to SEPA, means a district or islands council in Scotland;

“the Minister” means the Minister of Agriculture, Fisheries and Food;

“the Ministers” means the Secretary of State and the Minister;

“navigation authority” has the meaning given by section 221(1) of the 1991 Act;

“new Agency” means the Agency or SEPA;

“river purification authority” means a river purification authority within the meaning of the 1951 Act;

“river purification board” means a river purification board established by virtue of section 135 of the <sup>M15</sup>Local Government (Scotland) Act 1973;

“the transfer date” means such date as the Secretary of State may by order made by statutory instrument appoint as the transfer date for the purposes of this Part; and different dates may be appointed for the purposes of this Part—

- (i) as it applies for or in connection with transfers under or by virtue of Chapter I above, and
- (ii) as it applies for or in connection with transfers under or by virtue of Chapter II above;

“waste regulation authority”—

- (a) in the application of this Part in relation to the Agency, means any authority in England or Wales which, by virtue of section 30(1) of the 1990 Act, is a waste regulation authority for the purposes of Part II of that Act; and
- (b) in the application of this Part in relation to SEPA, means any council which, by virtue of section 30(1)(g) of the 1990 Act, is a waste regulation authority for the purposes of Part II of that Act.

(2) In relation to any time on or after 1st April 1996—

- (a) subsection (1) above shall have effect as if, in the definition of “local authority”, for the words “district or islands council in Scotland” there were substituted the words “ council constituted under section 2 of the <sup>M16</sup>Local Government etc. (Scotland) Act 1994 ”; and
- (b) in section 22(3)(a)(iv) above the reference to an islands council shall be construed as a reference to a council mentioned in section 3(1) of the Local Government etc. (Scotland) Act 1994.

(3) Where by virtue of any provision of this Part any function of a Minister of the Crown is exercisable concurrently by different Ministers, that function shall also be exercisable jointly by any two or more of those Ministers.

#### Marginal Citations

- M3** 1951 c. 66.
- M4** 1990 c. 43.
- M5** 1991 c. 57.

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- M6** 1974 c. 40.
- M7** 1989 c. 14.
- M8** 1993 c. 12.
- M9** S.I. 1994/1056.
- M10** 1974 c. 40.
- M11** 1989 c. 14.
- M12** 1991 c. 28.
- M13** 1993 c. 12.
- M14** S.I. 1994/1056.
- M15** 1973 c. 65.
- M16** 1994 c. 39.

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